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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,884	01/05/2001	Christoph Lodde	44815/251563	4102

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 04/28/2003

LF

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/755,884

Applicant(s)

LODDE, CHRISTOPH

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

#### ***Claim Rejections - 35 USC § 112***

3. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, newly amended claim 1, lines 7-8, now recites “so as to achieve cohesion of the fibers and prevent penetration of the adhesive coating through the textile tape support”. The Examiner notes that “cohesion” is clearly new matter, Applicant has not pointed out any express or inherent support of “cohesion” in the Specification, nor does the Examiner find “cohesion” being either expressly or inherently taught. It should also be noted that “cohesion” refers to adhesion or attraction within a bulk phase (see reference by Wu, “Polymer Interface and Adhesion”, page 338). As such, it would be impossible for a thermoplastic resin to achieve “cohesion of the fibers”, as they are different materials.

Additionally, Applicant’s argument (Response, page 3, 4th paragraph) that “cohesion of the fibers expresses the intent that the fibers are bonded together without

holes" also appears as new matter. While it is noted that in the Specification, page 3, first paragraph, Applicant discloses that "resin impregnation prevents bleed-through", the Examiner notes that there is no apparent express support in the Specification for "without holes", and additionally it is noted that inherently "without holes" is equivalent to "free of holes", which is new matter under the rule of *Ex Parte Grasselli et al.* – Bd. of App. 231 PQ 393, Affd. 738 F. 2d 453 (Fed. Cir. 1984) to the effect that limitations such as "free of" a particular element are new matter in the absence of express support.

#### ***Response to Amendment***

4. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mamish (US 5227225), substantially for the reasons set forth in section 4 of Paper No. 11 and section 4 of Paper No. 14, together with the following additional observations.

Applicant argues that "the resin must be present with a basis weight which is greater than the weight of the web and, consequently, much greater than 1 to 5 g/m<sup>2</sup>" (Response, page 4, third paragraph) is also not understood, i.e., Applicant has not pointed out any express or inherent support of such limitation in Mamish's Specification, nor does the Examiner find such limitation being either expressly or inherently taught.

With respect to Applicant's argument that "the support according to the present invention has much denser structure than the support of Mamish" (Response, page 5, top paragraph), the Examiner notes, again, that Applicant has not pointed out any express or inherent support of such limitation in Mamish's Specification. Further, the

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Examiner reiterates (see section 4 of Paper No. 11) that Mamish teaches a lightweight nonwoven which is essentially made by the same process as the support of the instant claimed invention.

Finally, it is noted that newly amended claim 1, lines 7-8, now recites "so as to achieve cohesion of the fibers and prevent penetration of the adhesive coating through the textile tape support". However, the Examiner reiterates (see section 4 of Paper No. 14) that Mamish teaches that "the coated polyolefinic backing layer will both coat the surface of the cloth and invade its interstices so that the cloth may be said to be "embedded" in the backing layer" (column 1, lines 56-61). As such, it is believed that clearly Mamish's surface coating and/or the embedded (i.e., impregnated) backing inherently also function as a barrier to prevent the adhesive from bleeding through.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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VSC  
April 23, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP ~~1300~~  
1700

*Daniel Zinker*